

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE: JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION**

MDL No. 16-2738 (MAS) (RLS)

***THIS DOCUMENT RELATES TO
ALL CASES***

**THE PLAINTIFFS' STEERING COMMITTEE'S REPLY TO
DEFENDANTS' OMNIBUS RESPONSE TO CMO 9 NOTICES OF
INABILITY TO SUBSTITUTE THE PROPER PARTY PLAINTIFF**

Plaintiffs, by and through the Plaintiffs' Steering Committee ("PSC"), submit this Reply in response to Johnson & Johnson's and LLT Management LLC's ("Defendants") Omnibus Response to CMO 9 Notices of Inability to Substitute a proper party plaintiff (ECF No. 29283). Notably, Defendants filed their Response prematurely and without conferring with the Plaintiffs' Steering Committee or counsel for individual plaintiffs regarding an agreed upon process and the appropriate deadlines for proper substitution of a new party upon the death of the prior plaintiff.

Defendants' response suggests that the Notices of Inability to Substitute a

Proper Party Plaintiff filed to date are deficient on their face for failure to provide sufficient information concerning the specifics of the appointment or reasons for timely pursuit and effectuation of the probate process to accomplish substitution. The Parties are in accord with treatment of all CMO 9 filings as “statement[s] noting the death” for purposes of Rule 25. The Plaintiffs’ agreement to a deadline of May 28, 2024, for purposes of substitution of a proper party is dependent on a procedure that can effectively progress the substitution process.

As discussed below, the information sought by Defendants, much of which is unknown, places the success of this process in doubt. If Defendants’ goal is to successfully evaluate the validity of the process followed by the plaintiffs to timely substitute party plaintiffs, then a system for gathering and reporting the necessary objective information would provide the clarity and detail Defendants have indicated to the Court they need.

Plaintiffs propose the use of a form entitled, Notice of Inability to Substitute (attached as Exhibit A) to categorize the information necessary and relevant to the substitution process. These objective criteria would permit the Parties and Court to uniformly evaluate the specific information available and appropriately assess any deficiencies and the reasons set forth for any omissions without the need for ongoing deficiency notices and unwarranted motions to dismiss complaints with prejudice.

Plaintiffs’ proposed form focuses on objective, quantifiable information, e.g.,

the date probate petition was filed, date probate attorney was retained, etc. The form eliminates Defendants' information requests that call for speculation (e.g., estimated date on which an estate will be opened); as well as requests for information not relevant to the claims at issue here (e.g., the name of any probate attorney assisting with the process).

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter the attached proposed order.

Dated: March 23, 2024

Respectfully submitted,

s/ Michelle A. Parfitt

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CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive services in this MDL.

Respectfully submitted,

s/ Michelle A. Parfitt

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